

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 7157 of 2004

V.T.Karandikar ..Petitioner

VS.

1. Union of India & Ors. ..Respondents

Shri R.G.Walia for petitioner
Shri S.C.Dhawan with Shri T.S.Pandian for Union of India.

**CORAM: A.P.SHAH AND
S.C.DHARMADHIKARI JJ
13th December, 2004**

P.C.

1. Heard Advocates.

2. The petitioner was compulsorily retired from service and his retiral/pension benefits were paid to him. The petitioner challenged the order of compulsory retirement in Central Administrative Tribunal, Mumbai Bench by filing O.A.No.720 of 2001. The Tribunal allowed the O.A. and directed the respondents to reinstate the petitioner and pay back wages to the petitioner after he refunds all the retiral/pension benefits received by him. The order of the tribunal was challenged by the respondents in this Court but the said writ petition came to be dismissed on 21st June, 2004. Consequently respondent no.3 has issued direction as per the order of the tribunal that the petitioner's back wages shall be paid to him only

after he refunds all the retiral/pension benefits received by him.

3. Shri Walia, learned Counsel appearing for the petitioner submitted that the arrears of backwages amounts to Rs.10,00,000/- whereas the retiral/pensionary benefits received by him so far are about Rs.9,00,000/- He submits that the petitioner is not in a position to refund such a huge amount in one stroke and, therefore, direction be issued to the respondents to adjust his retiral/pensionary benefits received by him with the arrears of backwages. Learned Counsel, however, fairly conceded that this prayer was not made before the Tribunal.

4. In view of the decision of the Supreme Court in L.Chandrakumar's case it is not permissible for this Court to entertain the grievance of this nature by way of petition under Art.226. Prayer of the petitioner will have to be considered by the Tribunal and the Tribunal is competent to pass appropriate orders on the request made by the petitioner. By consent of the parties we direct the office to transfer this petition to Central Administrative Tribunal, Mumbai Bench which will be treated as O.A. and be appropriately dealt with by the tribunal in accordance with law. The Tribunal

is requested to decide the O.A. as expeditiously as possible and preferably within a period of 8 weeks from today on its own merits. Petition is disposed of accordingly.